

decided. The writ was granted upon the affidavit of the complainant alone, that the defendant was about to depart beyond the jurisdiction of the court. No affidavits were filed in support of the oath of the wife, substantiating acts and declarations of the defendant, indicative of his intention to go abroad, but her right to the writ rested exclusively upon her own statement, that he entertained such an intention. It is not meant, of course, to say that the wife may not make such affidavit, though her power to do so, appears to have been at one time denied. *Sedgwick vs. Watkins*, 1 *Vez.*, Jr., 49. That decision appears to have been overruled by the case of *Shaftoe vs. Shaftoe*, 7 *Vez.*, 171, and was pronounced by Chancellor Kent, in *Denton vs. Denton*, 1 *Johns. Ch. Rep.*, 441-2, not to have been founded on just principles. There can be no doubt, however, that the affidavit of the wife in the cases in which she is permitted to make it against her husband, may be corroborated by the oaths of other persons, deposing to the acts and declarations of the husband, manifesting his purpose to remove himself beyond the jurisdiction of the court.

But in this case the Baltimore County Court has decided that the writ may be granted upon the affidavit of the wife, and with the judgment of that court, upon the case as it was presented to them, the Chancellor does not mean, in any respect, to interfere. The question, and the only question now to be considered, is, whether the foundation upon which the court proceeded, has not been so far taken away by the answer, which was not before them, when the order was passed, as to justify and require this court to discharge the writ.

A preliminary objection was presented by the counsel for the complainant, that this court could not take cognizance of this cause, because at the time of the passage of the act of 1824, ch. 196, which authorized the transfer of cases from the sixth judicial district to the Court of Chancery, no law existed, which gave our courts of equity jurisdiction in cases of divorce, it being supposed, that notwithstanding the prospective as well as the retrospective language of the act, that it only applied to cases to which the jurisdiction of the courts of equity then extended. The Chancellor does not concur in this con-